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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA

11                  C. P., by and through his parents, Patricia  
12                  Pritchard and Nolle Pritchard, individually  
13                  and on behalf of others similarly situated;  
14                  and PATRICIA PRITCHARD,

CASE NO. 3:20-cv-06145-RJB  
ORDER ON STIPULATED  
MOTION

15                  Plaintiffs,

16                  v.

17                  BLUE CROSS BLUE SHIELD OF  
18                  ILLINOIS,

19                  Defendants.

20                  This matter comes before the Court on the parties' Stipulated Motion in Response to  
21                  Order Staying Case (Dkt. 171). Dkt. 172. The Court has reviewed the motion and the remaining  
22                  file.

23                  This case was stayed pending a decision in *Wit v. United Behavioral Health*, U.S. Court  
24                  of Appeals for the Ninth Circuit case number 20-17636. On August 22, 2023, the Ninth Circuit  
granted a petition for panel rehearing, vacated a prior opinion, replaced it with a new opinion,  
and denied as moot a petition for rehearing en banc. *Id.* Dkt. 150. The opinion provided that

1 “[s]ubsequent petitions for rehearing or rehearing en banc, are permissible.” *Id.* at 8. Pursuant to  
2 Fed. R. App. P. 35(c) and 40(a)(1), the deadline to file a petition for rehearing or rehearing en  
3 banc was September 5, 2023. The mandate has not issued in that case.

4 In the pending motion, the parties propose that:

5 (1) the parties file supplemental briefing by September 22, 2023 regarding the effect of  
6 *Wit* on this case; and

7 (2) the Plaintiffs’ Motion for Classwide Declaratory and Permanent Injunctive Relief and  
8 Award of Individual Nominal Damages to Named Plaintiffs (Dkt. 153) and Defendant Blue  
9 Cross Blue Shield of Illinois’s Motion to Decertify the Class (Dkt. 156) be rescheduled to October  
10 20, 2023.

11 At this point, it appears that the parties’ motion (Dkt. 172) should be granted. If the  
12 Ninth Circuit Court of Appeals takes additional action in the *Wit* case (other than issuance of a  
13 mandate or other administrative action) the undersigned may reconsider this briefing schedule.  
14 Parties should inform the Court when the mandate in *Wit* is issued.

15 **IT IS SO ORDERED.**

16 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
17 to any party appearing pro se at said party’s last known address.

18 Dated this 6th day of September, 2023.

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22 ROBERT J. BRYAN  
23 United States District Judge  
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